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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,006	09/20/2006	Quentin Baillia-Prel	0579-1128	1367

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YOUNG & THOMPSON
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EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3673

NOTIFICATION DATE	DELIVERY MODE
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11/27/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

Office Action Summary	Application No. 10/588,006	Applicant(s) BAILLIA-PREL, QUENTIN	
	Examiner CARLOS LUGO	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to applicant's amendment filed on August 10, 2009.

Claim Objections

4. **Claims 2 and 6-8 are objected** to because of the following informalities:

- Claim 2, change “at least one abutment” to -two abutments- and “at least one stop portion” to -two stop portions-, since the fixed part has 2 abutments and the crash bar 2 stop portions. The “at least one” limitation requires 1, 2 or 2+, which the applications does not give support for other than 2 abutments or stop portions.
- Claim 6, change “at least one abutment” to -two abutments- and “at least one stop portion” to -two stop portions-, since the fixed part has 2 abutments and the crash bar 2 stop portions. The “at least one” limitation requires 1, 2 or 2+, which the applications does not give support for other than 2 abutments or stop portions.
- Cancel claims 7 and 8 since the change presented above with respect to claim 6 covers the limitations presented in claims 7 and 8.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. **Claims 1-29 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 19 requires a crash bar that activates a bolt operating member when is moved to a working position. However, the invention requires a bolt? At the moment, the assembly is not doing any locking/unlocking since there is no locking member. Also, how the crash bar is capable of moving the bolt operating member? Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 1, 2, 4-6, 11, 12, and 19-29 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 4,312,528 to Hall et al (Hall).

Regarding claims 1, 11 and 25, Hall discloses a panic bolt assembly comprising a fixed part (31) having a bolt operating member (46) and a crash bar (33, 34 and 48) that is mounted on the fixed part to pivot about a longitudinal axis (36) between an idle position in which the crash bar occupies a position remote from the fixed part (Figure 5) and a working position in which the crash bar occupies a position close to the fixed part (when is pushed in the E direction) and in which the crash bar activates the bolt operating member. The crash bar comprises a member of profiled

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section (33) that is articulated about the longitudinal axis by means of an articulation portion (at 36).

As to claims 2 and 6, Hall discloses that the fixed part has abutments (sides of 38) cooperating with a stop portion (37) carried by the crash bar to delimiting the range of movement in articulation of the crash bar.

As to claim 4, Hall illustrates that the fixed part is a section extending in the same direction as the crash bar.

As to claims 5 and 22-24, Hall illustrates that the fixed part includes a longitudinal housing (50).

As to claims 12 and 19-21, Hall discloses that the fixed part includes two lateral plates (50) between which the crash bar is situated.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claims 3, 10 and 18 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,312,528 to Hall et al (Hall).

As to claim 3, Hall fails to disclose that the articulation portion is situated in a lower portion of the crash bar. Hall illustrates that the articulation portion is located on an upper portion of the crash bar.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the articulation portion at the lower part of the crash bar since the reversal of components in a prior art reference, where there is no disclosed significance to such reversal, is a design consideration within the skill of the art.

As to claim 10, Hall illustrates that the fixed part has a longitudinal rib (45) adapted to receive the bolt operating member. Applicant is reminded that duplicating the components of a prior art device is a design consideration within the skill of the art.

As to claim 18, Hall illustrates an articulation to move the crash abr. Applicant is reminded that a change in the shape of a prior art device is a design consideration within the level of skill of one skilled in the art.

11. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat No 4,312,528 to Hall et al (Hall) in view of US Pat No 2,104,618 to Hasenfuss.

Hall fails to disclose that the latch bolt extends through one of the lateral shell. Hall discloses a different latch bolt, which runs vertically with respect to the assembly.

Hasenfuss teaches that it is well known in the art to provide a panic assembly that comprises two lateral shells (18 and 19) and a latch bolt (14) extending through one of the shells.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the latch bolt described by Hall, extending through

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one of the shells, as taught by Hasenfuss, since it would be considered as a design consideration within the art that has no effect in the mechanism of the assembly.

Allowable Subject Matter

12. **Claim 13 would be allowable** if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

13. Claims 14-17 would also be allowed since the claims depend from claim 13.

Response to Arguments

14. Applicant's arguments filed on August 10, 2009 have been fully considered but they are not persuasive.

The applicant argues that Hall fails to disclose that the crash bar has a member of profiled section that is articulated about the longitudinal axis.

At the instant, Hall clearly shows that the crash bar has a member of profiled section (33) that is articulated about the longitudinal axis. Therefore, the arguments are not persuasive.

Also, the 112 2nd paragraph issues to claims 1 and 29 and the claim objection to claims 2 and 6 are maintained.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARLOS LUGO whose telephone number is (571)272-7058. The examiner can normally be reached on 10-7pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the

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automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carlos Lugo/
Primary Examiner
Art Unit 3673

November 22, 2009.